

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 1:16-cr-00224-PAG
Plaintiff, Cleveland, Ohio
vs. Monday, November 26, 2018
9:00 a.m.

vs.

BOGDAN NICOLESCU,
RADU MICLAUS,

Defendants.

TRANSCRIPT OF PRETRIAL PROCEEDINGS
BEFORE THE HONORABLE PATRICIA A. GAUGHAN,
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

Brian L. Levine
U.S. Department of Justice
Criminal Division
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1301 New York Avenue
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For the Defendants: (Continued to Page 2.)

Official Court Reporter: Heidi Blueskye Geizer,
Certified Realtime Reporter
United States District Court
801 West Superior Avenue
Cleveland, Ohio 44113
216-357-7092

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

1 APPEARANCES: (Continued)

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6 For the Defendant Michael J. O'Shea
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1 MORNING SESSION, MONDAY, NOVEMBER 26, 2018 9:00 A.M.

2 | (Call to order of the Court.)

3 THE COURT: We are here in the matter of the
4 United States of America versus Bogdan Nicolescu and Radu
5 Miclaus, Case Number 16-cr-224.

6 Present in court is Mr. Nicolescu. Also present in
7 court is Mr. Miclaus.

8 One more time, sir, how do you pronounce your last
9 name?

10 DEFT. MICLAUS: Miclaus.

11 THE COURT: Miclaus.

12 DEFT. MICLAUS: Yes.

13 THE COURT: Mr. Miclaus is in fact represented
14 by Mr. Michael O'Shea, who is present here.

15 MR. O'SHEA: Good morning.

16 THE COURT: This Court has in fact appointed
17 Mr. Michael Goldberg on behalf of Mr. Nicolescu, and
18 Mr. Goldberg is present here in court.

19 On behalf of the government is Mr. Duncan Brown, Mr.
20 Brian Levine, and Mr. Brian McDonough.

21 MR. BROWN: Good morning, Your Honor.

22 THE COURT: Good morning.

23 This matter was set for trial today. As this Court
24 indicated in a docket entry of November 19, a very serious
25 issue was brought to the attention of this Court; and very

1 specifically, it was a conflict of interest that was brought
2 to the attention of this Court.

3 Because of that, this Court did in fact have a
4 telephonic conference with Mr. Brown, Mr. Levine,
5 Mr. McDonough on behalf of the government, as well as
6 Mr. Ross Smith, who was the attorney representing
7 Mr. Nicolescu.

8 After having a telephone discussion regarding the
9 potential conflict, Mr. Smith had asked that he be removed
10 from representing Mr. Nicolescu. This Court granted his
11 request to withdraw, and on the same date this Court
12 appointed Mr. Michael Goldberg.

13 Obviously Mr. Goldberg represented to this Court that
14 he would not be prepared to proceed to trial within a
15 one-week period of time, and therefore this Court made the
16 determination to continue this matter and not proceed with
17 trial today.

18 I will also indicate that after the telephone
19 conference with Mr. Smith we had a telephone conference with
20 Mr. O'Shea. All counsel agreed that the matter should be
21 continued and that the defendants not be severed.

22 On behalf of the government, have I represented
23 everything accurately?

24 MR. BROWN: Yes, Your Honor. Thank you.

25 THE COURT: Mr. O'Shea?

1 MR. O'SHEA: Good morning. Yes, Your Honor.

2 THE COURT: And Mr. Goldberg, you are new to
3 the case, but am I correct that you indicated you would not
4 be prepared to proceed within a one-week period of time?

5 MR. GOLDBERG: That is correct, Your Honor. I
6 would not be prepared probably in two weeks even.

7 But with regard to the severance issue, I have not
8 looked at this issue, Your Honor. I would reserve my
9 client's right to raise that issue at a later date if I
10 believe that it is properly put before the Court. I don't
11 know enough about the specific issues to know whether
12 severance is in his best interests or even legally worthy of
13 an objection, but right now I'd like to leave that open on
14 his behalf.

15 THE COURT: And my statement was in regards to
16 whether or not we'd proceed today on Mr. O'Shea's client,
17 and it was agreed by and between Mr. O'Shea and Mr. Brown,
18 Mr. Levine, and Mr. McDonough, that we not proceed today on
19 Mr. O'Shea's client.

20 MR. GOLDBERG: Thank you.

21 THE COURT: No problem.

22 I have had discussions with counsel in chambers, and
23 we have all agreed to the following: The government intends
24 to file a motion regarding hearsay. That motion will be
25 filed by December 31st. The government intends to file a

1 motion regarding authentication. That will be filed by
2 January 31st.

3 Any brief or briefs in opposition will be due seven
4 days after the motion is filed.

5 Pretrial motions, other than the two I just mentioned,
6 are to be filed by February 25th.

7 Briefs in opposition by March 4th.

8 Final pretrial, March 18th at 9:00 a.m.

9 Trial, March 28 at 9:00 a.m.

10 On behalf of the government, is there anything further
11 for today?

12 MR. BROWN: Nothing further. Thank you.

13 THE COURT: Mr. Goldberg -- and again, you
14 understand, Mr. Goldberg, you were formally appointed on
15 November 19th.

16 MR. GOLDBERG: Yes.

17 THE COURT: And I'm certain you have not had
18 sufficient time to even bring up issues with the Court, but
19 I still have to ask you, is there anything further?

20 MR. GOLDBERG: I don't believe there's any
21 issues relative to the matter itself.

22 Logistically, Your Honor, to the extent this Court can
23 request the U.S. Marshals to locate my client somewhere in
24 the greater Cleveland area rather than CCA to facilitate
25 more frequent-based visits so I can get up to speed, I would

1 appreciate that.

2 I understand that that's really a matter for the U.S.
3 Marshals Service, and they're going to make the final
4 determination. But to the extent the Court can recommend,
5 ask, or somehow let it be known that that is in the best
6 interests of moving this matter forward, I would appreciate
7 it.

8 THE COURT: Well --

9 DEPUTY U.S. MARSHAL: May I come up?

10 THE COURT: Certainly.

11 (Discussion at side-bar off the record.)

12 THE COURT: Mr. Goldberg, the Marshals are
13 aware of your request. That's the best I can do.

14 MR. GOLDBERG: Thank you, Your Honor.

15 THE COURT: Anything else?

16 MR. GOLDBERG: No, Your Honor. Thank you.

17 THE COURT: Mr. O'Shea, anything?

18 MR. O'SHEA: Nothing. Nothing further this
19 morning. Thank you.

20 THE COURT: All right. We're in adjournment.

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22 (Proceedings adjourned.)

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5 C E R T I F I C A T E

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7 I certify that the foregoing is a correct transcript
8 from the record of proceedings in the above-entitled matter.

9

10 s/Heidi Blueskye Geizer January 22, 2020

11 Heidi Blueskye Geizer
12 Official Court Reporter

Date

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